

APR 07 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARVELLOUS A. GREENE, Sr.,

Plaintiff - Appellant,

v.

CHERYL PLILER; et al.,

Defendants - Appellees.

No. 07-15325

D.C. No. CV-02-00684-GEB/EFB

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell Jr., District Judge, Presiding

Submitted March 18, 2009^{**}

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

California state prisoner Marvellous A. Greene, Sr. appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action, without prejudice, for failure to exhaust administrative remedies as required by the Prison

^{*} This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Litigation Reform Act, 42 U.S.C. § 1997e(a). We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Wyatt v. Terhune*, 315 F.3d 1108, 1117 (9th Cir. 2003). We affirm.

The district court properly dismissed the action because Greene did not properly exhaust administrative remedies before submitting his complaint to federal court. *See McKinney v. Carey*, 311 F.3d 1198, 1200–01 (9th Cir. 2002) (per curiam) (requiring inmates to exhaust administrative procedures before filing suit in federal court); *see also Vaden v. Summerhill*, 449 F.3d 1047, 1050 (9th Cir. 2006) (holding that an action is brought for purposes of § 1997e(a) when the prisoner submits his complaint to the court). The remainder of Greene’s contentions on appeal are unpersuasive.

AFFIRMED.